

## REMARKS

Before this Response, claims 1-24 were pending and claims 1-24 now stand rejected and/or objected to. In this Response, claims 1-4, 9-10, 12, 15-17, and 20-22 have been amended and claims 5, 18 and 19 have been canceled, leaving claims 1-4, 6-17, and 20-24 pending. In the present Office action, claims 15-19 are rejected under 35 USC § 101 as being directed to non-statutory subject matter. Claims 1-3, 6-11, 15-16, and 19-24 are rejected under 35 USC § 102(b) as being anticipated by U.S. Pat. No. 6,311,276 to Connery et al. (hereinafter “Connery”). Claims 4-5, 12-14, and 17-18 are also rejected under 35 USC § 103(a) as being unpatentable over Connery in view of U.S. Patent Pub. No. 2002/0135611 to Deosaran et al. (hereinafter “Deosaran”).

Applicant respectfully believes that all of the rejections and objections have been traversed in light of the following remarks and the preceding amendments. All of the pending claims as amended in the present application are believed to be patentable over the cited prior art and the Applicant respectfully requests that the application proceed towards issuance.

### Claim rejections under 35 USC § 101

Claims 15-19 are rejected under 35 USC § 101 as being directed to non-statutory subject matter. In light of the amendments and/or arguments herein, Applicant respectfully requests that the rejections of claims 15-19 under 35 USC § 101 be withdrawn.

The Office action contends that claims 15-19 are directed to a “machine-accessible medium” and thus can include non-statutory subject matter within their scope. The Office action also contends that the data structure of claim 19 does not constitute per-se statutory subject matter. Applicant respectfully disagrees with these assertions, but, in the interest of expediting prosecution, Applicant has amended claims 15-17 to further clarify their statutory nature. Additionally, claims 18 and 19 have been canceled and the specific rejections of those claims are now moot and need not be addressed. Support for the amendments may be found, *inter alia*, in paragraphs [0002], [0023] and

[0024] of the Specification. Applicant respectfully contends that the rejections of claim 15-19 have been successfully overcome with the amendments and accordingly requests reconsideration by the Examiner.

### **Claim rejections under 35 USC §§ 102 and 103**

The original claims 1-24 were rejected under either 35 USC § 102(b) or 103(a) as a result of Connery and/or Deosaran. Applicant respectfully contends that in light of the amendments and/or arguments herein, these rejections have been successfully traversed. As discussed previously, claims 1-4, 9-10, 12, 15-17, and 20-22 have been amended and claims 5, 18 and 19 have been canceled, leaving claims 1-4, 6-17, and 20-24 pending. Support for these amendments may be found at, *inter alia*, paragraphs [0045]-[0051] and FIG. 7 of the Specification. In light of the amendments and/or arguments herein, however, many of the Office action's arguments are now moot and only the arguments impacting the claims as amended will be addressed in the interest of brevity. Accordingly, only pending claims 1-4, 6-17, and 20-24 will be discussed herein.

A claim is anticipated under 35 USC § 102 only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference.<sup>1</sup> Furthermore, the identical invention must be shown in as complete detail as is contained in the claim.<sup>2</sup> To establish a prima facie case of obviousness under 35 USC § 103, the modification or combination must teach or suggest all of Applicant's claim limitations.<sup>3</sup> If the modification or combination does teach or suggest all of the claim limitations, there must be a reason to perform the modification or combination that would prompt a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.<sup>4</sup> Such an obviousness analysis is subject to the Graham factors of the scope and content of the prior art, the differences between the prior art and the claims, the

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<sup>1</sup> *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

<sup>2</sup> *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

<sup>3</sup> *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974).

<sup>4</sup> *Takeda Chemical Ind. v. Alphapharm Pty.*, 492 F.3d 1350, 1356-57 (citing *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727 (2007)).

level of ordinary skill in the pertinent art, and objective evidence of nonobviousness.<sup>5</sup> While the teaching-suggestion-motivation (TSM) test cannot be rigidly applied, the test of whether there is a suggestion or motivation to modify or combine the references can provide helpful insight into an obviousness inquiry.<sup>6</sup>

#### Claims 1-4 and 6-11

Applicant respectfully contends that, in regards to amended claim 1, neither Connery nor Deosaran, nor any other cited art teach or suggest, alone or in combination, expressly or inherently, “each and every element as set forth in the claim[s]” and thus fail to anticipate under 35 USC § 102 or establish a prima facie case of obviousness under 35 USC § 103. Connery instead teaches a security feature that is added to the Wake On LAN (WOL) protocol so that security can be added to WOL transmissions. (See, generally, Abstract and col. 2, lines 2-11). Deosaran instead teaches intelligent memory to accelerate various computer software processes. (See, generally, Abstract).

Neither Connery nor Deosaran, alone or in combination, disclose or suggest “transmitting a request for wake-on-LAN status information to a plurality of clients and receiving a response from one or more of the clients, the response including an indication of wake-on-LAN functionality status of the client” as required by claim 1 as amended. Within claim 1, the transmitted request and received response are separate from the later transmitted first network packet comprising a wake-on-LAN packet. Connery does disclose adding commands to a WOL packet and also receiving an acknowledgement pack from the client. (See, col. 7, lines 23-49). Connery does not disclose a separate request for WOL information and response as required by claim 1 as it utilizes the WOL packet itself (either a Magic Packet or alternative formulation) as a package for delivery. (See, col. 2, lines 2-6). Connery, in fact, distinguishes its solution from those that require transmission of a separate packet. (See, col. 1, lines 50-64).

Neither do Connery nor Deosaran, alone or in combination, disclose or suggest “determining a client to be managed from the plurality of clients based on the received statuses of wake-on-LAN functionality” as required by claim 1 as amended. Connery

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<sup>5</sup> *Id.* at 1355.

<sup>6</sup> *Id.* at 1357.

does not disclose such a limitation as its management functions are based on security and authentication, such as by accepting authenticated messages and discarding ones that fail authentication. (See, col. 2, lines 13-24). Since Connery does not request and receive WOL status information, as described previously, the Connery system cannot determine a client to be managed based on this sort of information.

Neither do Connery nor Deosaran, alone or in combination, disclose or suggest “in response to receiving responses from the one or more clients and determining a client to be managed, transmitting a first network packet to the determined client using the network, the network packet comprising a wake-on-LAN packet” as required by claim 1 as amended. Connery does disclose a WOL packet being transmitted to a client (See, col. 1, lines 7-11); but such a transmission is not “in response to receiving responses from the one or more clients and determining a client to be managed” as required by claim 1.

Based on the foregoing, Applicant respectfully contends that the disclosed references neither teach nor suggest, expressly or inherently, “each and every element as set forth in the claim[s]”, and thus fail to fail to anticipate amended claim 1 under 35 USC § 102 or establish a prima facie case of obviousness for amended claim 1 under 35 USC § 103. Claims 2-4 and 6-11, being dependent upon claim 1, incorporate the limitations of claim 1. Accordingly, neither Connery nor Deosaran, alone or in combination, expressly or inherently, disclose or suggest multiple limitations of claims 2-4 and 6-11 for the reasons described for claim 1 and for other reasons. Applicant therefore respectfully requests that the rejections of claims 1-4 and 6-11 be withdrawn and the claims allowed.

#### Claims 12-17 and 20-24

In regards to independent claim 12, neither Connery nor Deosaran, alone or in combination, expressly or inherently, disclose or suggest multiple limitations of amended independent claim 12 for the reasons as described previously regarding claim 1 as well as other reasons. Further, claims 13-14, being dependent upon claim 12, incorporate the limitations of amended claim 12 and are patentable for the same and additional reasons. Applicant therefore respectfully requests that the rejections of claims 12-14 be withdrawn and claims 12-14 be allowed.

In regards to independent claim 15, neither Connery nor Deosaran, alone or in combination, expressly or inherently, disclose or suggest multiple limitations of amended independent claim 15 for the reasons as described previously regarding claim 1 as well as other reasons. Further, claims 16-17, being dependent upon claim 15, incorporate the limitations of amended claim 15 and are patentable for the same and additional reasons. Applicant therefore respectfully requests that the rejections of claims 15-17 be withdrawn and claims 15-17 be allowed.

In regards to independent claim 20, neither Connery nor Deosaran, alone or in combination, expressly or inherently, disclose or suggest multiple limitations of amended independent claim 20 for the reasons as described previously regarding claim 1 as well as other reasons. Further, claims 21-24, being dependent upon claim 20, incorporate the limitations of amended claim 20 and are patentable for the same and additional reasons. Applicant therefore respectfully requests that the rejections of claims 20-24 be withdrawn and claims 20-24 be allowed.

#### Reservation of Rights

Applicant has canceled claims 5 and 18-19 from further consideration in this application. Applicant is not conceding in this application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the allowable subject matter noted by the Examiner. Applicant respectfully reserves the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

## CONCLUSION

In the present response, Applicant amended the Specification and drawings, amended claims 1-4, 9-10, 12, 15-17, and 20-22, canceled claims 5, 18 and 19, and responded to the Office action's various claim rejections. Accordingly, Applicant believes that this response constitutes a complete response to each of the issues raised in the Office action. In light of the amendments made herein and the accompanying remarks, Applicant respectfully traverses the rejections in the Office action and believes that the pending claims as amended are in condition for allowance. Accordingly, Applicant respectfully requests that the rejections be withdrawn, pending claims 1-4, 6-17, and 20-24 be allowed, and the application advance toward issuance.

If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at (512) 692-7297.

No fee is believed due with this paper. However, if any fee is determined to be required, the Office is authorized to charge Deposit Account 50-0563 for any such required fee.

Respectfully submitted,

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